

TUESDAY, MARCH 7, 1978

SEVENTIETH LEGISLATIVE DAY

The House met at 3:00 p.m. and was called to order by Mr. Speaker McWherter.

The proceedings were opened with prayer by Bob E. Zumbro, Pastor, First Baptist Church, Woodbury, Tennessee.

Representative Buck led the House in the Pledge of Allegiance to the Flag.

The roll call was taken with the following results:

Present 97

Representatives present were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 97.

REPORT OF CHIEF ENGROSSING CLERK

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Bills Nos. 1591, 1655, 1657, 1691, 1694, 1824, 1975 and 2217; and House Joint Resolutions Nos. 392, 397, 398, 401, 409, 412 and 435; for his action.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

ENGROSSED BILLS

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Joint Resolutions Nos. 447, 464 and 471; and find same correctly engrossed and ready for transmission to the Senate.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

ENROLLED BILLS

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Bills Nos. 1615, 1792, 1940, 1959, 1970, 1978, 2003, 2138, 2177, 2390 and 2442; and House Joint Resolution No. 463; and find same correctly enrolled and ready for the signatures of the Speakers.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

SIGNED

The Speaker announced that he had signed the following: House Bills Nos. 1615, 1792, 1940, 1959, 1970, 1978, 2003, 2138, 2177, 2390 and 2442; and House Joint Resolution No. 463.

CALENDAR

House Bill No. 1977 — To enact the Products Liability Act of 1978.

On motion, House Bill No. 1977 was made to conform with Senate Bill No. 2188.

On motion, Senate Bill No. 2188, on same subject, was substituted for House Bill No. 1977.

Mr. Lanier moved that Senate Bill No. 2188 be passed on third and final reading.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 1

Amend Senate Bill No. 2188 by inserting between the first and second sentences of subsection (a) of Section 6 of the bill the following:

Provided, however, a product liability action may be commenced or maintained against the seller if the manufacturer of such product is: (1) insolvent; (2) not subject to service of process in the state of Tennessee; or (3) not subject to service of process under Tennessee Code Annotated, Section 20-235.

FURTHER AMEND by deleting from subsection (b) of Section 6 of the bill the words and punctuation marks “, provided such manufacturer shall be subject to service of process in the State of Tennessee or service can be secured by the long arm statute of Tennessee or such manufacturer is insolvent.” and by placing a period after the word “defective” immediately preceding the deleted language.

FURTHER AMEND by adding to the end of subsection (b) of Section 6 of the bill the following:

Provided, however, a product liability action may be commenced or maintained against the seller if the manufacturer of such product is: (1) insolvent; (2) not subject to service of process in the State of Tennessee; or (3) not subject to service of process under Tennessee Code Annotated, Section 20-235.

Mr. Lashlee moved that Amendment No. 1 be tabled, which motion prevailed by the following vote:

Ayes.....	55
Noes.....	34

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Ford (Cocke), Fuqua, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Martin, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Young and Mr. Speaker McWherter — 55.

Representatives voting no were: Ashford, Bissell, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fisher, Ford (Shelby) Gaia, Hurley, Kernell, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Nolan, Ozment, Phillips, Robinson (Hamilton), Spence, Steinhauer, Turner, Withers and Yelton — 34.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 2

Amend Senate Bill No. 2188 by adding to the end of Section 9 of the bill the following subsection:

(d) Notwithstanding any other provision of law to the contrary, where an employer, purchaser, or his agent shall knowingly and willfully: (1) modify or alter a product without the written consent of and according to the instructions or specifications provided by the manufacturer; (2) fail to warn or properly instruct users in the proper use of the product in accordance with instructions or warnings provided by the manufacturer; or (3) removes or fails to install safeguards recommended or provided by the manufacturer, such employer or purchaser shall be liable for all damage, injury, or death proximately resulting from such knowing and willful conduct.

Mr. Lashlee moved that Amendment No. 2 be tabled, which motion prevailed by the following vote:

Ayes.....	53
Noes.....	40
Present and not voting	2

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Chiles, Davidson (Wayne), DePriest, Dixon, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 53.

Representatives voting no were: Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Carter, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Hurley, Kernell, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Turner and Withers — 40.

Representatives present and not voting were: Ashford and McAfee — 2.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 3

Amend Senate Bill No. 2188 by adding a new section as follows:

SECTION . Any defect discovered in a product during the ten (10) year period for claims which is known to the manufacturer or seller and is concealed by him shall toll the running of the ten (10) year period and the computation shall recommence only when the manufacturer or seller makes a bona fide effort to inform persons who possess or use the product.

Mr. Lashlee moved that Amendment No. 3 be tabled, which motion prevailed by the following vote:

Ayes.....	52
Noes.....	40
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Blackburn, Buck, Burks, Burleson, Burnett (Sumner), Butler, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Lanier, Lashlee, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Work, Yelton, Young and Mr. Speaker McWherter — 52.

Representatives voting no were: Bissell, Bragg, Burnett (Fentress), Bussart, Carter, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Kernell, Ledford, Longley, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Turner, Withers and Wood — 40.

Representative present and not voting was: Byrd — 1.

Mr. Ford (Shelby) moved to amend as follows:

AMENDMENT NO. 4

Amend Senate Bill No. 2188 by deleting Section 2, subsection (j), in its entirety and substituting in lieu thereof the following:

"Anticipated Life." The anticipated life shall be determined by the period over which the product should be reasonably expected to be useful.

Mr. Lanier moved that Amendment No. 4 be tabled, which motion prevailed by the following vote:

Ayes.....	54
Noes.....	39

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Clark, Davidson (Robertson), Davidson (Wayne), DePriest, Dixon, Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, King, Lanier, Lashlee, McAfee, Martin, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Wood, Work, Young and Mr. Speaker McWherter — 54.

Representatives voting no were: Bissell, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Cobb, Darnell, Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hood, Hurley, Kernell, Ledford, Love, McKinney, Miller, Murphy (Shelby), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Spence, Steinhauer, Turner, Watson, Withers and Yelton — 39.

Mr. Lanier moved to amend as follows:

AMENDMENT NO. 5

Amend Senate Bill No. 2188 by deleting from Section 6B the language which follows the word "defective" and by substituting in lieu thereof the following:

or unless the manufacturer of the product or part in question shall not be subject to service of process in the state of Tennessee or service cannot be secured by the long arm statutes of Tennessee or unless such manufacturer has been judicially declared insolvent.

Mr. Murphy (Davidson) moved to amend Amendment No. 5 as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 5

Amend Amendment No. 5 by adding the same language to the end of Section 6A.

Mr. Naifeh moved that Amendment No. 1 to Amendment No. 5 be tabled, which motion failed by the following vote:

Ayes.....	44
Noes.....	50
Present and not voting	2

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Scruggs, Shockley, Smith, Stafford, Stallings, Tanner, Wallace, Webb, Wolfe, Work, Young and Mr. Speaker McWherter — 44.

Representatives voting no were: Ashford, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Carter, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hurley, Kernell, King, Longley, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Robinson (Washington), Spence, Starnes, Steinhauer, Turner, Watson, Williams, Withers, Wood and Yelton — 50.

Representatives present and not voting were: McAfee and Sterling — 2.

Thereupon, Amendment No. 1 to Amendment No. 5 was adopted by the following vote:

Ayes.....	57
Noes.....	39

Representatives voting aye were: Ashford, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Carter, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Good, Hood, Hurley, Johnson, Kernell, King, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Richardson, Robertson, Robinson (Hamilton), Robinson (Washington), Spence, Starnes, Steinhauer, Turner, Watson, Williams, Withers, Wood and Yelton — 57.

Representatives voting no were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Chiles, Copeland, DePriest, Dixon, Fuqua, Gaia, Gill, Hall, Henry, Hillis, Jensen, Lanier, Lashlee, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Scruggs, Shockley, Smith, Stafford, Stallings, Tanner, Wallace, Webb, Wolfe, Work, Young and Mr. Speaker McWherter — 39.

Thereupon, Amendment No. 5, as amended, was adopted by the following vote:

Ayes.....	95
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 95.

Mr. Wallace moved the previous question, which motion failed by the following vote:

Ayes.....	49
Noes.....	43
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Fisher, Fuqua, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams and Wolfe — 49.

Representatives voting no were: Ashford, Bissell, Buck, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Spence, Steinhauer, Sterling, Turner, Withers, Wood, Yelton and Young — 43.

Representatives present and not voting were: Brewer, Work and Mr. Speaker McWherter — 3.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 6

Amend Senate Bill No. 2188 by adding the following section:

No provision of a policy or contract of casualty or liability insurance shall be valid in this state which protects the policyholder from the payment of any punitive or exemplary damages awarded as the result of a products liability action.

Mr. Lanier moved that Amendment No. 6 be tabled, which motion prevailed by the following vote:

Ayes.....	55
Noes.....	39
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Brewer, Buck, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Wood, Young and Mr. Speaker McWherter — 55.

Representatives voting no were: Bissell, Bragg, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Kernell, King, Love, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robinson (Hamilton), Spence, Steinhauer, Sterling, Turner, Watson, Withers and Yelton — 39.

Representative present and not voting was: Work — 1.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 7

Amend Senate Bill No. 2188 by deleting original Section 12 in its entirety and substituting instead the following new sections:

Section 12. This act shall have no effect in any county unless it is approved by a two-thirds (2/3) vote of the county legislative body. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

Section 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Mr. Dixon moved that Amendment No. 7 be tabled, which motion prevailed by the following vote:

Ayes.....	59
Noes.....	31
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Phillips, Rhinehart, Richards, Richardson, Robertson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Yelton, Young and Mr. Speaker McWherter — 59.

Representatives voting no were: Burnett (Fentress), Burnett (Sumner), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Ford (Shelby), Gaia, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby); Murray (Franklin), Nolan, Ozment, Pickering, Robinson (Hamilton), Spence, Stallings, Steinhauer, Sterling, Withers and Work — 31.

Representative present and not voting was: Turner — 1.

Mr. Rhinehart moved the previous question, which motion failed by the following vote:

Ayes.....	54
Noes.....	37
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Sterling, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Yelton and Young — 54.

Representatives voting no were: Ashford, Bissell, Buck, Burnett (Fentress), Bussart, Cawood, Clark, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Robertson, Robinson (Hamilton), Spence, Steinhauer, Turner, Withers and Wood — 37.

Representatives present and not voting were: Brewer, Work and Mr. Speaker McWherter — 3.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 8

Amend Senate Bill No. 2188 by deleting original section 12 and substituting in lieu thereof the following new Section:

SECTION 12. This act shall have no effect unless it is approved by a majority of the number of qualified voters of the state voting in an election on the question of whether or not the act should be approved. The ballots used in the regular November election shall have printed on them the substance of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the state election commissioners and certified by them to the secretary of state as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act.

Mr. Naifeh moved that Amendment No. 8 be tabled, which motion prevailed by the following vote:

Ayes.....	57
Noes.....	36

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Wood, Yelton, Young and Mr. Speaker McWherter — 57.

Representatives voting no were: Bissell, Brewer, Burnett (Fentress), Burnett (Sumner), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fisher, Fleming, Ford (Shelby), Gaia, Hurley, Jensen, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Robinson (Hamilton), Spence, Steinauer, Turner, Watson, Withers and Work — 36.

Mr. Williams moved the previous question, which motion failed by the following vote:

Ayes.....	52
Noes.....	43
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, DePriest, Dixon, Fisher, Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe and Yelton — 52.

Representatives voting no were: Ashford, Bissell, Buck, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers, Wood and Young — 43.

Representatives present and not voting were: Brewer, Work and Mr. Speaker McWherter — 3.

Mr. Ashford moved to amend as follows:

AMENDMENT NO. 9

Amend Senate Bill No. 2188 by deleting from section 5 the word “and” between “condition” and “unreasonably” and substituting instead the word “or”.

On motion, the amendment was adopted.

Mr. Buck moved to amend as follows:

AMENDMENT NO. 10

Amend Senate Bill No. 2188 by deleting the second sentence of Section 7.

On motion, the amendment was adopted.

Mr. Ashford moved to amend as follows:

AMENDMENT NO. 11

Amend Senate Bill No. 2188 in Section 3 by deleting the words “within a period of fourteen (14) years from the date of injury or” in the first sentence of the section.

Mr. Lanier moved that Amendment No. 11 be tabled, which motion failed by the following vote:

Ayes.....	42
Noes.....	56

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burkes, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Davidson (Wayne), DePriest, Dixon, Fuqua, Gill, Hall, Henry, Hillis, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Smith, Stafford, Stallings, Starnes, Wallace, Webb, Work and Mr. Speaker McWherter — 42.

Representatives voting no were: Ashford, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Good, Hood, Hurley, Jensen, Kernell, King, Love, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Scruggs, Shockley, Small, Spence, Steinhauer, Sterling, Tanner, Turner, Watson, Williams, Withers, Wolfe, Wood, Yelton and Young — 56.

Thereupon, Amendment No. 11 was adopted by the following vote:

Ayes.....	67
Noes.....	29

Representatives voting aye were: Ashford, Atchley, Bewley, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Chiles, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Good, Henry, Hood, Hurley, Jensen, Johnson, Kernell, King, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Richardson, Robertson, Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Spence, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Williams, Withers, Wolfe, Wood and Yelton — 67.

Representatives voting no were: Bell, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Carter, Davidson (Wayne), DePriest, Dixon, Fuqua, Hall, Hillis, Lanier, Lashlee, Murray (Madison), Naifeh, Rhinehart, Richards, Robinson (Davidson), Smith, Stafford, Stallings, Starnes, Webb, Work, Young and Mr. Speaker McWherter — 29.

Mr. Wallace moved the previous question, which motion failed by the following vote:

Ayes.....	50
Noes.....	41
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Davidson (Wayne), DePriest, Dixon, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Williams, Wolfe, Wood and Yelton — 50.

Representatives voting no were: Ashford, Bissell, Bragg, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers and Young — 41.

Representatives present and not voting were: Brewer, Work and Mr. Speaker McWherter — 3.

Mr. Clark moved to amend as follows:

AMENDMENT NO. 12

Amend Senate Bill No. 2188 by adding the following new section:

SECTION . The provisions of this act shall apply only to products manufactured within Tennessee.

Mr. Lanier moved that Amendment No. 12 be tabled, which motion prevailed by the following vote:

Ayes.....	54
Noes.....	38

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Butler, Carter, Chiles, Davidson (Wayne), DePriest, Dixon, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Washington), Scruggs, Smith, Stafford, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Young and Mr. Speaker McWherter — 54.

Representatives voting no were: Ashford, Bissell, Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pruitt, Robinson (Hamilton), Shockley, Small, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 38.

Mr. Lashlee moved the previous question, which motion failed by the following vote:

Ayes.....	52
Noes.....	42
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Martin, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe and Work — 52.

Representatives voting no were: Ashford, Bissell, Buck, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fisher, Fleming, Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers, Wood, Yelton and Young — 42.

Representatives present and not voting were: Bragg, Brewer and Mr. Speaker McWherter — 3.

Mr. Burnett (Fentress) moved to amend as follows:

AMENDMENT NO. 13

Amend Senate Bill No. 2188 by deleting section 5 in its entirety and renumbering the following sections.

Mr. Naifeh moved that Amendment No. 13 be tabled, which motion prevailed by the following vote:

Ayes.....	51
Noes.....	47

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, DePriest, Dixon, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Wood, Work, Young and Mr. Speaker McWherter — 51.

Representatives voting no were: Ashford, Bissell, Bragg, Brewer, Buck, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Longley, Love, McKinney, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Watson, Withers and Yelton — 47.

Mr. DePriest moved the previous question, which motion failed by the following vote:

Ayes.....	58
Noes.....	38
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood and Young — 58.

Representatives voting no were: Ashford, Bissell, Buck, Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Smith, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 38.

Representatives present and not voting were: Brewer, Work and Mr. Speaker McWherter — 3.

Mr. McKinney moved to amend as follows:

AMENDMENT NO. 14

Amend Senate Bill No. 2188 by adding a new section which shall read as follows:

"There shall be no additional premiums of insurance on product liability coverage in this state for a period of three years upon the passage of this Act."

Mr. Naifeh moved that Amendment No. 14 be tabled, which motion prevailed by the following vote:

Ayes.....	53
Noes.....	41
Present and not voting	4

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Butler, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Phillips, Rhinehart, Richardson, Robinson (Davidson), Robinson (Washington), Shockley, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Young and Mr. Speaker McWherter — 53.

Representatives voting no were: Ashford, Bissell, Brewer, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fisher, Fleming, Ford (Shelby), Gaia, Hurley, Kernell, King, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Pickering, Pruitt, Richards, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 41.

Representatives present and not voting were: Love, Scruggs, Smith and Work — 4.

Mr. Dixon moved the previous question, which motion failed by the following vote:

Ayes.....	55
Noes.....	37
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Buck, Burks, Burleson, Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Jensen, Johnson, Lanier, Lashlee, Ledford, McAfee, Martin, Moore, Murray (Franklin), Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work and Young — 55.

Representatives voting no were: Ashford, Bissell, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Gaia, Hood, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Nolan, Ozment, Phillips, Pickering, Pruitt, Robertson, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 37.

Representatives present and not voting were: Bragg, Brewer and Mr. Speaker McWherter — 3.

Messrs. Jensen, Hall, Lanier, Naifeh and Scruggs requested that under Rule No. 34, the Committee on Calendar and Rules meet immediately and fix a time in which debate on Senate Bill No. 2188 shall be closed.

The Speaker ruled that the request was in order and declared that the House would stand in recess for this purpose.

The recess having expired, the House was called to order by Mr. Speaker McWherter.

On motion, the roll call was dispensed with.

REPORT OF COMMITTEE ON CALENDAR AND RULES

MR. SPEAKER: Your Committee on Calendar and Rules unanimously recommends that all debate on Senate Bill No. 2188 be terminated by 5:30 p.m. today. We further unanimously recommend that debate on each remaining amendment be limited to three (3) minutes per member. We further unanimously recommend that all debate on Senate Bill No. 2188 be limited to five (5) minutes per member. We further unanimously recommend that no member be allowed to speak more than once on an amendment or the bill.

Respectfully submitted,
LANIER, Chairman.

FURTHER CONSIDERATION OF SENATE BILL NO. 2188

Mr. Clark moved to amend as follows:

AMENDMENT NO. 15

Amend Senate Bill No. 2188 by adding the following new section:

SECTION . The provisions of this act shall apply only to products manufactured within the United States.

Mr. Naifeh moved that Amendment No. 15 be tabled, which motion prevailed by the following vote:

Ayes.....	49
Noes.....	43

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Buck, Burks, Burleson, Burnett (Sumner), Butler, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Fuqua, Gill, Hall, Henry, Hillis, Hurley, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Naifeh, Pickering, Rhinehart, Richards, Richardson, Robinson (Davidson), Scruggs, Shockley, Smith, Stafford, Stallings, Tanner, Wallace, Watson, Webb, Wolfe, Work, Young and Mr. Speaker McWherter — 49.

Representatives voting no were: Ashford, Bissell, Bragg, Brewer, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, Elkins, Ellis,

Fleming, Ford (Cocke), Ford (Shelby), Gaia, Good, Hood, Kernell, King, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pruitt, Robertson, Robinson (Hamilton), Robinson (Washington), Spence, Starnes, Steinhauer, Sterling, Turner, Withers, Wood and Yelton — 43.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 16

Amend Senate Bill No. 2188 by moving the last sentence of Section 3 to become a clause between the word "injury" and the word "except".

On motion, the amendment was adopted.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 17

Amend Senate Bill No. 2188 by adding the following sections to be designated as Sections 10, 11, 12, 13, 14, 15, 16, 17, 18, and renumbering the remaining sections accordingly:

SECTION 10. (a) As used in Sections 10-18, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of insurance.
- (2) "Facility" means the product liability insurance placement facility established and further defined herein.
- (3) "Association" means the Joint Underwriting and Reinsurance Association as further defined herein.
- (4) "Product liability insurance" means insurance against direct loss arising out of the use or consumption of the insured's product.
- (5) "Eligible applicant" means any corporation, company, or person involved in the manufacture, sale, or distribution of products eligible for product liability insurance.
- (6) "Premiums written" means gross direct premiums written on liability and casualty insurance written pursuant to the provisions of Tennessee Code Annotated, Title 56, less all premiums and dividends credited or returned to policyholders on the unused or absorbed portion of premium deposits.

SECTION 11. All insurance companies except mutual companies licensed to provide casualty and liability insurance within Tennessee shall cooperate in organizing a products liability insurance placement facility in such manner as shall be approved by the commissioner of insurance and shall submit to the commissioner a plan of organization and a plan of operation for the facility. The plans shall incorporate the provisions of Section 12, and shall contain such other appropriate provisions as deemed necessary and helpful to achieve the purposes of this act.

SECTION 12. (A) Each insurance company licensed to provide all or any part of the coverage provided for as part of casualty insurance, as defined in this act, shall participate in

the plan of operation as a condition precedent to obtaining or maintaining authority to sell all or any part of that coverage in Tennessee.

(B) The facility shall have the authority to equitably apportion the product liability insurance among all such insurance companies in a method and manner approved by the commissioner as reasonably calculated to distribute fairly the risk of loss which may be incurred among insurers on the basis of premiums written within Tennessee.

(C) Every eligible applicant for product liability insurance, upon proof that he has made a reasonable effort to obtain insurance and has been unable to obtain it shall be entitled on request to the facility to:

(i) A prompt inspection of his product by representatives of the facility in the manner and form the facility shall prescribe with the approval except mutual companies of the commissioner.

(ii) A report from the facility stating it has presented the application and inspection report to insurance companies participating in the plan of operation and that a company or companies writing casualty and liability insurance have agreed to write all the coverage requested or a part of the coverage requested, or that a company or companies writing casualty and liability insurance have agreed to write all the coverage requested or a part of it if certain specified improvements are made or safety prevention measures taken within a reasonable time, or that no company has agreed to write any of the coverage requested for specified reasons.

(iii) Insurance coverage agreed to in the report up to a reasonable insurable value, provided upon satisfactory proof that any improvements or safety prevention measures suggested have been made or taken, and upon payment of the required premium to the company or companies, or agents thereof, that agree to provide the coverage.

(D) It shall be evidence of a reasonable effort to obtain insurance if a person presents to the facility a written statement from a company, broker, or agent that they are unable to provide the required amount of insurance.

SECTION 13. (a) No insurance company shall direct any agent or other producer not to solicit business through the facility; no insurance agent shall direct any other agent in his employ or any broker or other producer not to solicit business through the facility; and no agent, broker, or other producer shall be penalized in any way by an insurance company or employer producer for submitting to the facility.

(b) No insurance agent or broker licensed to sell casualty and liability insurance shall be allowed to refuse a request for inspection from an eligible applicant for products liability insurance unless the applicant is:

(1) Then indebted to any agent, broker, or company for coverage requested.

(2) Then unwilling to make satisfactory payment arrangements for the coverage requested.

(c) Violations of this section shall be grounds for revocation of the offender's license or certificate of authority to do business in this state.

SECTION 14. (a) Agents and brokers submitting applications to the facility shall be compensated by commissions upon the original issuance of coverage, each installment payment if any, and each renewal thereof, and shall be entitled to no other compensation.

(b) Commissions to licensed insurance agents and brokers from the facility and from any joint underwriting and reinsurance association established in accordance with the provisions of this section shall be set by the commissioner from time to time at such percentage of the average commission rate customarily paid by those insurance companies who customarily compensate agents by commissions, as the commissioner, after appropriate hearing, shall find to be sufficiently attractive to encourage agents and brokers to actively seek out risks in products to the agent or broker to place such business through his customary markets when he finds that this is practicable.

SECTION 15. (a) If at any time the commissioner determines that the facility is not adequately fulfilling its stated purpose he shall, after proper notice and hearing, promulgate an order establishing in the state a joint underwriting and reinsurance association consisting of all insurers licensed to write and engaged in writing in this state, on a direct basis, liability and casualty insurance. Every insurer shall be a member of the association and remain a member as a condition of its authority to transact such kinds of insurance within the state. Within ninety (90) days following that order, the association shall submit to the commissioner a proposed plan of operation, consistent with the purposes of this section, to provide for the prompt, efficient provision of products liability insurance to eligible applicants meeting reasonable underwriting standards who are otherwise unable to obtain coverage from the facility established in Section 11. The plan of operation shall provide for economical, fair, and nondiscriminatory administration, including provisions for preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commissions, reasonable underwriting standards and limits of liability, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

(b) The plan of operation shall be subject to approval by the commissioner and shall take effect ten (10) days after having been approved by him. If the commissioner disapproves the proposed plan of operation, the association shall within thirty (30) days submit for review an appropriately revised plan of operation and, if the association fails to submit the plan or if the revised plan is also disapproved by the commissioner, the commissioner shall promulgate a plan of operation. The association may, on its own initiative or at the request of the commissioner, amend the plan of operation subject to approval by the commissioner. Any member of the association may cede to the association products liability insurance to the extent, if any, and on the terms and conditions set forth in the plan of operation. All members of the association shall participate in its writing, expenses, profits, and losses in the proportion that the premiums written by each member, except premiums for insurance on automobile and manufacturing risks excluded from the plan and that portion of the premiums attributable to the operation of the association during the preceding calendar year, bear to the aggregate premiums written in the state by all members of the association. Participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the commissioner. The association and the facility shall be governed by a board of fifteen (15) directors who shall serve without compensation, eleven (11) to be elected annually by the members of the association by cumulative voting and four (4) representatives of com-

munity groups and associations of insurance agents and brokers doing business in the state to be appointed annually by the commissioner. Cumulative voting by the members shall be permitted at all elections.

SECTION 16. The commissioner or any suitable person designated to act for him shall have the power to examine and investigate the operation of the facility or association and shall have free access to all the books, records, files, papers, and documents that relate to those operations, may summon and qualify witnesses under oath, and may examine directors, officers, agents, employees, or any other person having knowledge of those operations for the purpose of determining if the purposes of this act are being fulfilled.

SECTION 17. There shall be no liability on the part of, and no cause of action of any nature shall arise against insurance companies, the facility, the association or agents or employees thereof, or insurance agents or employees thereof, or insurance agents or brokers using the facility, plan, or association, or the commissioner or his authorized representatives for any inspections undertaken, acts or omissions in connection therewith, or statements made in any reports and communications concerning the insurability of the property, or at the time of any hearings conducted in connection therewith, or in the findings required by the provisions of this section. The reports and communications of the facility and the association shall not be considered public records.

SECTION 18. (A) (1) The denial by the facility, or the denial by the association of a part or all of the coverage requested by an eligible applicant and any other decision requiring improvements to be made or safety measures to be taken as a condition of providing product liability insurance shall be subject to review by the commissioner if an eligible applicant files an appeal with the commissioner within ten (10) days of any denial or decision. On receipt of any appeal, the commissioner shall cause an investigation of the facts to be made, shall grant all interested parties an opportunity to be heard, and shall enter a finding, order, or decision as he deems will best meet the purpose of this act.

(2) Any person aggrieved by any finding, order, or decision, and any person aggrieved by any other rule or regulation of the commissioner made pursuant to this act may, within ten (10) days of the filing of any finding, order, decision, rule, or regulation in the office of the commissioner, appeal therefrom to the circuit court, for the county in which the complainant resides. The court shall, after notice to the parties as it deems reasonable, hold a summary hearing on the appeal and shall have jurisdiction in equity to review all questions of fact and law, and to affirm or reverse the findings or order and to make any appropriate decree. The decision of the court shall be final and binding on all parties and may include an order as to costs as the court deems equitable.

Mr. Longley moved to amend Amendment No. 17 as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 17

Amend Amendment No. 17 by amending the amendatory language by deleting the following words in Section 11:

"Except mutual companies"

On motion, Amendment No. 1 to Amendment No. 17 was adopted.

Mr. Lashlee moved that Amendment No. 17, as amended, be tabled, which motion prevailed by the following vote:

Ayes.....	57
Noes.....	42

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Fisher, Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Washington), Scruggs, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Young and Mr. Speaker McWherter — 57.

Representatives voting no were: Ashford, Bissell, Brewer, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hurley, Kernell, King, Love, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pickering, Pruitt, Robinson (Hamilton), Shockley, Small, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 42.

Mr. Carter moved the previous question, which motion prevailed by the following vote:

Ayes.....	66
Noes.....	28
Present and not voting	3

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, King, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Miller, Moore, Murray (Franklin), Murray (Madison), Naifeh, Nolan, Pickering, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work, Yelton and Young — 66.

Representatives voting no were: Ashford, Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Hood, Hurley, Kernell, McKinney, Murphy (Davidson), Murphy (Shelby), Ozment, Phillips, Pruitt, Robertson, Steinhauer, Sterling, Turner and Withers — 28.

Representatives present and voting were: Brewer, Robinson (Hamilton) and Mr. Speaker McWherter — 3.

Thereupon, Senate Bill No. 2188, as amended, passed its third and final reading by the following vote:

Ayes.....	64
Noes.....	31
Present and not voting	4

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Bragg, Buck, Burks, Burleson, Burnett (Sumner), Butler, Carter, Chiles, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), DePriest, Dixon, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Miller, Moore, Murray (Madison), Naifeh, Ozment, Pickering, Rhinehart, Richards, Richardson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Webb, Williams, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 64.

Representatives voting no were: Bissell, Blackburn, Burnett (Fentress), Bussart, Byrd, Cawood, Clark, Cobb, Davis, DeBerry, Elkins, Ellis, Fleming, Ford (Shelby), Gaia, Kernell, King, McKinney, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Nolan, Phillips, Pruitt, Small, Spence, Steinhauer, Sterling, Turner, Watson and Withers — 31.

Representatives present and not voting were: Ashford, Brewer, Love and Robertson — 4.

Mr. Ozment, having voted with the prevailing side, moved that the House reconsider its action in passing Senate Bill No. 2188 on third and final reading.

Mr. Lanier moved that the rules be suspended for the immediate consideration of Mr. Ozment's motion, which motion failed by the following vote:

Ayes.....	60
Noes.....	36
Present and not voting	1

Representatives voting aye were: Atchley, Bell, Bewley, Bishop, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Sumner), Butler, Byrd, Carter, Chiles, Copeland, Davidson (Wayne), DePriest, Dixon, Elkins, Fisher, Ford (Cocke), Fuqua, Gill, Good, Hall, Henry, Hillis, Jensen, Johnson, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Moore, Murray (Madison), Naifeh, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Washington), Scruggs, Shockley, Smith, Stafford, Stallings, Starnes, Tanner, Wallace, Watson, Webb, Williams, Wolfe, Wood, Work and Mr. Speaker McWherter — 60.

Representatives voting no were: Ashford, Bissell, Brewer, Burnett (Fentress), Bussart, Cawood, Clark, Cobb, Darnell, Davidson (Robertson), Davis, DeBerry, Ellis, Fleming, Ford (Shelby), Gaia, Hood, Hurley, Kernell, King, McKinney, Miller, Murphy (Shelby), Murray (Franklin), Nolan, Ozment, Phillips, Pruitt, Robinson (Hamilton), Small, Spence, Steinhauer, Sterling, Turner, Withers and Yelton — 36.

Representative present and not voting was: Love — 1.

The Speaker announced that pursuant to Rule No. 38, Mr. Ozment would have exclusive control of the motion to reconsider Senate Bill No. 2188 for the remainder of today and all day Wednesday, March 8, 1978.

House Bill No. 2292 — To amend Section 49-3904, Code.

On motion, House Bill No. 2292 was made to conform with Senate Bill No. 1941.

On motion, Senate Bill No. 1941, on same subject, was substituted for House Bill No. 2292.

Mr. Cobb moved that Senate Bill No. 1941 Be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	94
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Longley, Love, McAfee, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 94.

A motion to reconsider was tabled.

House Bill No. 2388 — To amend Sections 63-742 and 63-747, Code.

Mr. Cobb moved that House Bill No. 2388 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	91
Noes.....	0
Present and not voting	2

Representatives voting aye were: Ashford, Atchley, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Carter, Cawood, Chiles, Cobb, Copeland, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 91.

Representatives present and not voting were: Bell and Byrd — 2.

A motion to reconsider was tabled.

Mr. Williams moved that House Bill No. 1843 be re-referred to the Committee on Calendar and Rules, which motion prevailed.

Mr. Chiles moved that House Bill No. 1950 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

House Bill No. 1951 — To enact Utilities' Cut-off Procedures Act.

Mr. Chiles moved that House Bill No. 1951 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	78
Noes.....	7
Present and not voting	2

Representatives voting aye were: Ashford, Atchley, Bewley, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Byrd, Carter, Cawood, Chiles, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lashlee, Ledford, McAfee, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Madison), Nolan, Ozment, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton and Young — 78.

Representatives voting no were: Bell, Butler, Fuqua, McKinney, Murray (Franklin), Pickering and Tanner — 7.

Representatives present and not voting were: Love and Mr. Speaker McWherter — 2.

A motion to reconsider was tabled.

Mr. Bussart moved that House Joint Resolution No. 135 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

House Bill No. 1848 — To make provisions, savings and loan associations.

On motion, House Bill No. 1848 was made to conform with Senate Bill No. 1758.

On motion, Senate Bill No. 1758, on same subject, was substituted for House Bill No. 1848.

Mr. Bussart moved that Senate Bill No. 1758 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	91
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton and Mr. Speaker McWherter — 91.

A motion to reconsider was tabled.

House Bill No. 2262 — To amend Section 47-17-102, Code.

On motion, House Bill No. 2262 was made to conform with Senate Bill No. 1968.

On motion, Senate Bill No. 1968, on same subject, was substituted for House Bill No. 2262.

Mr. Copeland moved that Senate Bill No. 1968 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	87
Noes.....	2
Present and not voting	2

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, Lanier, Lashlee, Ledford, Longley, McAfee, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Shockley, Small, Smith, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 87.

Representatives voting no were: Cobb and Spence — 2.

Representatives present and not voting were: Ozment and Scruggs — 2.

A motion to reconsider was tabled.

House Bill No. 1883 — To amend Section 62-238, Code.

On motion, House Bill No. 1883 was made to conform with Senate Bill No. 1885.

On motion, Senate Bill No. 1885, on same subject, was substituted for House Bill No. 1883.

Mr. Copeland moved that Senate Bill No. 1885 be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	95
Noes.....	0
Present and not voting	1

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Ker-

nell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, Martin, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 95.

Representative present and not voting was: Richardson — 1.

A motion to reconsider was tabled.

Mr. Robinson (Hamilton) moved that House Bill No. 727 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

Mr. Murphy (Davidson) moved that House Bill No. 2062 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

House Bill No. 1649 — To make certain provisions, supplemental voter registration.

On motion, House Bill No. 1649 was made to conform with Senate Bill No. 1613.

On motion, Senate Bill No. 1613, on same subject, was substituted for House Bill No. 1649.

Mr. Murphy (Davidson) moved that Senate Bill No. 1613 be passed on third and final reading.

Mr. Murray (Madison) moved to amend as follows:

AMENDMENT NO. 1

Amend Senate Bill No. 1613 by deleting from the amendatory language of §1 the word "students" and substituting instead the word "persons".

On motion, the amendment was adopted.

Mr. Murphy (Davidson) moved to amend as follows:

AMENDMENT NO. 2

Amend Senate Bill No. 1613 by deleting the words and figures "July 1" and substituting the word and figures "March 29"

On motion, the amendment was adopted.

Mr. Murphy (Davidson) moved that Senate Bill No. 1613 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

Senate Bill No. 1683 — To regulate auctioneer's fee, public sales.

Mr. DePriest moved that Senate Bill No. 1683, as amended, be passed on third and final reading, which motion prevailed by the following vote:

Ayes.....	77
Noes.....	5
Present and not voting	7

Representatives voting aye were: Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Buck, Burks, Burleson, Burnett (Fentress), Butler, Carter, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Hillis, Hood, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richardson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Tanner, Turner, Wallace, Watson, Webb, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 77.

Representatives voting no were: Cawood, Hurley, McKinney, Robertson and Shockley — 5.

Representatives present and not voting were: Ashford, Atchley, Byrd, Henry, Martin, Richards and Scruggs — 7.

A motion to reconsider was tabled.

Mr. Hillis moved that House Bill No. 2103 be placed on the Calendar for Wednesday, March 15, 1978, which motion prevailed.

House Bill No. 1729 — To make provisions, inheritance tax.

Mr. Murray (Franklin) moved that House Bill No. 1729 be passed on third and final reading.

Mr. Bragg moved to amend as follows:

AMENDMENT NO. 1

Amend House Bill No. 1729 by deleting in Section 23 the word "July" and by substituting instead the word "November".

On motion, the amendment was adopted.

Mr. Murray (Franklin) moved to amend as follows:

AMENDMENT NO. 2

Amend House Bill No. 1729 by:

(a) Deleting the amendatory language of Section 1 therefrom and substituting therefor the following:

(c) By gift of the decedent to the extent of the value of any interest in property transferred, by trust or otherwise, during the three (3) year period ending on the date of the decedent's death. Property for purposes of this subsection shall include any property specified in §30-1601(a) for residents and §30-1601(b) for nonresidents. This subsection shall not apply to

any bona fide sale for an adequate and full consideration, nor to any gift excludable in computing taxable gifts under §67-2505. For purposes of determining the amount of any gift either includable in the estate or excludable under the preceding sentences, federal regulations, rulings, and procedures for computing such amount, if such exist, shall be applicable. In addition, any Tennessee gift tax paid on the transfer of any interest in property taxable under this subsection shall be a credit against any inheritance tax payable on the entire estate under this chapter, provided that the value of the property for inheritance tax purposes shall not be less than the value upon which the gift tax was computed. The amount of the gross estate (determined without regard to this sentence) shall be increased by the amount of any tax paid under Chapter 25 of Title 67 by the decedent or his estate on any gift made by the decedent or his spouse after December 31, 1978, and during the 3-year period ending on the date of the decedent's death.

- (b) Adding to the amendatory language of Section 4 between the words "than" and "this" found in the third sentence thereof the following:

subsection (a) and

- (c) Deleting from the third line of subsection (b) of the amendatory language of Section 17 the word "borthor" and substituting therefor the word "brother".
- (d) Deleting from the fifth line of subsection (b) of the amendatory language of Section 17 the word "descendant" which follows the phrase "who is related to the" and substituting therefor the word "donor".
- (e) Adding to the end of subsection (d) of the amendatory language of Section 17 the following sentence:

This subsection shall apply only if both spouses have signified, under rules promulgated by the commissioner, their consent to the application of this subsection in the case of all such gifts made during the calendar year by either while married to the other.

On motion, the amendment was adopted.

Mr. Cobb moved to amend as follows:

AMENDMENT NO. 3

Amend House Bill No. 1729 be redesignating Section 22 to be Section 23, by redesignating Section 23 to be Section 24, and by adding a new Section 22 as follows:

SECTION 22. After July 1, 1981, all beneficiaries through inheritance shall be treated equally. To achieve this purpose, notwithstanding the provisions of Sections 5 (b) and (c), and Section 6 of this act, Class B shall be phased out as of that date. Accordingly, Tennessee Code Annotated, Section 30-1609, is amended by deleting the words "and a maximum single exemption of one thousand dollars (\$1,000.00) against that portion of the estate distributable to one (1) or more beneficiaries of Class B" in the first sentence. Section 30-1609, is further amended by adding at the end of the definition of Class A the following "All other beneficiaries shall also be included in Class A," and by deleting the description of Class B in its entirety. Tennessee Code Annotated, Section 30-1610, is amended by deleting the tax rates applicable to Class B in their entirety.

AND FURTHER AMEND in Section 23 by deleting the words and figures "and Section 22" in the first line of the section and by adding a new sentence at the end of the section as follows:

Section 22 of this act shall take effect July 1, 1981. Sections 5 (b) and (c) and 6 shall be effective only from July 1, 1978 to June 30, 1981.

Mr. Murray (Madison) moved that Amendment No. 3 be tabled, which motion prevailed.

Thereupon, House Bill No. 1729, as amended, passed its third and final reading by the following vote:

Ayes.....	99
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Bureson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 99.

A motion to reconsider was tabled.

RESOLUTION LYING OVER

Senate Joint Resolution No. 216 — Relative to naming Earl G. Underwood Overpass.

The Speaker referred Senate Joint Resolution No. 216 to the Committee on Transportation.

Mr. Love moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 473 out of order, which motion prevailed.

House Joint Resolution No. 473 — Relative to welcoming Mrs. Thelma T. Daley — By Love.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Love, the resolution was adopted.

A motion to reconsider was tabled.

Mr. Love moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 474 out of order, which motion prevailed.

House Joint Resolution No. 474 — Relative to honoring Delta Sigma Theta Sorority — By Love.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Mr. Love, the resolution was adopted.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE

MR. SPEAKER: I am directed to return Senate Bill No. 445, as requested.

CLYDE W. McCULLOUGH, JR.,
Chief Clerk.

Mr. Robinson (Washington) moved that the motion to reconsider Senate Bill No. 445 be lifted from the table, which motion prevailed.

Mr. Robinson (Washington) moved that the House reconsider its action in passing Senate Bill No. 445, as amended, which motion prevailed.

FURTHER CONSIDERATION OF SENATE BILL NO. 445

Senate Bill No. 445 — To amend Section 59-932, Code.

Mr. Robinson (Washington) moved that Senate Bill No. 445 be passed on third and final reading.

Mr. Robinson (Washington) moved to amend as follows:

AMENDMENT NO. 2

Amend Senate Bill No. 445 by deleting from section 2 the words and punctuation which read:

“according to the 1970 federal census of population or any subsequent federal census.” and inserting instead a comma (,) after the figures “66,000” and the following new words and punctuation:

“or with a population of not less than seventy thousand (70,000) nor more than eighty thousand (80,000) according to the 1970 federal census of population or any subsequent federal census.”

On motion, the amendment was adopted.

Thereupon, Senate Bill No. 445, as amended, passed its third and final reading by the following vote:

Ayes.....	92
Noes.....	0

Representatives voting aye were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Gaia, Gill, Good, Hall, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Miller, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 92.

A motion to reconsider was tabled.

MOTION TO AMEND HOUSE RULES

Mr. Speaker:

I move you, Sir, in accordance with House Rule 72, that House Rule 38 be amended by adding an additional sentence at the end of the Rule as follows:

When a member moves to reconsider and requests that the motion to reconsider be entered upon the Journal, his motion shall be made in writing with the clerk, but no motion shall be accepted by the clerk prior to the actual vote on third and final reading.

TOM JENSEN.
SHELBY RHINEHART.

Under the rules, the motion lies over.

SECOND ROLL CALL

A roll call was taken with the following results:

Present 99

Representatives present were: Ashford, Atchley, Bell, Bewley, Bishop, Bissell, Blackburn, Bragg, Brewer, Buck, Burks, Burleson, Burnett (Fentress), Burnett (Sumner), Bussart, Butler, Byrd, Carter, Cawood, Chiles, Clark, Cobb, Copeland, Darnell, Davidson (Robertson), Davidson (Wayne), Davis, DeBerry, DePriest, Dixon, Elkins, Ellis, Fisher, Fleming, Ford (Cocke), Ford (Shelby), Fuqua, Gaia, Gill, Good, Hall, Henry, Hillis, Hood, Hurley, Jensen, Johnson, Kernell, King, Lanier, Lashlee, Ledford, Longley, Love, McAfee, McKinney, Martin, Miller, Moore, Murphy (Davidson), Murphy (Shelby), Murray (Franklin), Murray (Madison), Naifeh, Nolan, Ozment, Phillips, Pickering, Pruitt, Rhinehart, Richards, Richardson, Robertson, Robinson (Davidson), Robinson (Hamilton), Robinson (Washington), Scruggs, Shockley, Small, Smith, Spence, Stafford, Stallings, Starnes, Steinhauer, Sterling, Tanner, Turner, Wallace, Watson, Webb, Williams, Withers, Wolfe, Wood, Work, Yelton, Young and Mr. Speaker McWherter — 99.

INTRODUCTION OF RESOLUTIONS

House Joint Resolution No. 466 — Relative to paying tribute to Andy McGowan — By Hillis and Rhinehart.

Under the rules, House Joint Resolution No. 466 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 467 — Relative to expressing sorrow, death of Larry Lajoie Fisher — By Davidson (Robertson).

Under the rules, House Joint Resolution No. 467 was referred to the Committee on Calendar and Rules.

House Resolution No. 114 — Relative to honoring Rodney Williams for heroism — By Carter.

Under the rules, House Resolution No. 114 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 468 — Relative to studying the need for expansion, State Technical Institute at Knoxville — By Miller and Nolan.

The Speaker referred House Joint Resolution No. 468 to the Committee on State and Local Government.

House Joint Resolution No. 469 — Relative to requesting funds for Whitehouse High School Band — By Steinhauer, Davidson (Robertson) and Burnett (Sumner).

Under the rules, House Joint Resolution No. 469 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 470 — Relative to congratulating James L. Bomar, Jr. — By Phillips, Williams, Ozment, Naifeh and Mr. Speaker McWherter.

Under the rules, House Joint Resolution No. 470 was referred to the Committee on Calendar and Rules.

House Joint Resolution No. 472 — Relative to memory, Arthur Lee Burns, Sr. — By Davis, Fuqua, Wood, Robinson (Hamilton), Copeland, Starnes, McAfee and Carter.

Under the rules, House Joint Resolution No. 472 was referred to the Committee on Calendar and Rules.

House Resolution No. 115 — Relative to studying methods to improve criminal justice system — By Mr. Speaker McWherter.

Under the rules, House Resolution No. 115 was referred to the Committee on Calendar and Rules.

House Resolution No. 117 — Relative to studying use and disposition, certain solid waste products — By Blackburn, Yelton, Hood, Robinson (Washington) and Hurley.

Under the rules, House Resolution No. 117 was referred to the Committee on Calendar and Rules.

Mr. Jensen moved that Rule No. 75 be suspended in regard to House Bill No. 2537 to allow said bill to be introduced and considered by the House in the same manner as bills introduced before January 30, 1978, which motion prevailed.

INTRODUCTION OF BILLS

House Bill No. 2533 — To make certain provisions, budget of Franklin — By Young and Phillips.

Passed first reading.

House Bill No. 2534 — To make certain provisions, salary of Shelby County Mayor — By Gill.

Passed first reading.

House Bill No. 2535 — To redraw corporate limits, Eagleville — By Phillips.

Passed first reading.

House Bill No. 2537 — To amend Chapter 546, Public Acts, 1978 — By Robertson.

Passed first reading.

SENATE BILLS ON FIRST READING

Senate Bill No. 1695 — To authorize bond sales, Funding Board, construction of water-work.

Passed first reading.

Senate Bill No. 1903 — To amend Section 40-4001, Code.

Passed first reading.

Senate Bill No. 1948 — To amend Section 2-611, Code.

Passed first reading.

Senate Bill No. 2021 — To amend Section 50-1323(G), Code.

Passed first reading.

Senate Bill No. 2030 — To provide collection, certain taxes, Chancery Court.

Passed first reading.

Senate Bill No. 2087 — To change boundary line, DeKalb and Cannon Counties.

Passed first reading.

Senate Bill No. 2093 — To amend Sections 4-509 and 4-519, Code.

Passed first reading.

Senate Bill No. 2108 — To create position, Criminal Investigator, Second Judicial Circuit.

Passed first reading.

Senate Bill No. 2186 — To regulate child foster care.

Passed first reading.

Senate Bill No. 2289 — To amend Section 49-605, Code.

Passed first reading.

Senate Bill No. 2311 — To amend Sections 48-512 through 48-515, Code.

Passed first reading.

Senate Bill No. 2401 — To amend Section 49-5002, Code.

Passed first reading.

Senate Bill No. 2416 — To create North West Tennessee Railroad Authority.

Passed first reading.

HOUSE BILLS ON SECOND READING

House Bill No. 2521 — To amend Charter, Morristown.

Passed second reading and held without reference.

House Bill No. 2522 — To amend Charter, Morristown.

Passed second reading and held without reference.

House Bill No. 2523 — To provide for election, Superintendent of Education, Meigs County.

Passed second reading and held without reference.

House Bill No. 2524 — To make certain provisions, emergency lights on constables' vehicles.

Passed second reading and referred to Committee on State and Local Government.

House Bill No. 2525 — To provide for establishment of school zones, Wilson County.

Passed second reading and held without reference.

House Bill No. 2526 — To provide for reapportionment of road commission zones, Wilson County.

Passed second reading and held without reference.

House Bill No. 2527 — To fix compensation of McMinn County Council.

Passed second reading and held without reference.

House Bill No. 2528 — To fix times for holding court, seventeenth chancery division.

Passed second reading and referred to Committee on Judiciary.

House Bill No. 2529 — To amend Chapter 228, Private Acts of 1967.

Passed second reading and held without reference.

House Bill No. 2530 — To amend Chapter 162, Private Acts of 1972.

Passed second reading and held without reference.

House Bill No. 2531 — To increase compensation of certain city officials, Brownsville.

Passed second reading and held without reference.

House Bill No. 2532 — To make certain provisions, city council of Clarksville.

Passed second reading and held without reference.

House Bill No. 2536 — To exempt Hamilton County school system from certain purchasing requirements.

Passed second reading and held without reference.

SPONSORS ADDED

Without objection, the rules were suspended to allow the following members to add their names as sponsors to the bills as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 989 — Murray (Franklin)

House Bill No. 2019 — Williams, Murray (Franklin)

House Bill No. 2062 — Ozment

MOTIONS

On motion of Mr. Watson, House Joint Resolution No. 436 was recalled from the Committee on Calendar and Rules.

On motion of Mr. Watson, House Joint Resolution No. 436 was withdrawn from the House.

On motion of Mr. Murray (Madison), House Bill No. 1962 was recalled from the Committee on State and Local Government.

On motion of Mr. Murray (Madison), House Bill No. 1962 was referred to the Committee on Finance, Ways and Means.

On motion of Ms. DeBerry, House Joint Resolution No. 418 was recalled from the Committee on General Welfare.

On motion of Ms. DeBerry, House Joint Resolution No. 418 was referred to the Committee on Calendar and Rules.

STANDING COMMITTEE REPORTS

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: House Bills Nos. 263 (with amendment), 944, 989, 1708, 1754 (with amendment), 1896 (with amendment), 1962 (with amendment), 2026 (with amendment), 2070 (with amendment), 2073 (with amendment), 2083, 2188, 2203, 2315, 2352, 2389 (with amendment), 2408, 2431, 2433 (with amendment) and 2507, and House Joint Resolution No. 328.

BRAGG, Chairman.

Under the rules, House Bills Nos. 263, 944, 989, 1708, 1754, 1896, 1962, 2026, 2070, 2073, 2083, 2188, 2203, 2315, 2352, 2389, 2408, 2431, 2433 and 2507, and House Joint Resolution No. 328 were transmitted to the Committee on Calendar and Rules.

STATE AND LOCAL GOVERNMENT

MR. SPEAKER: Your Committee on State and Local Government begs leave to report that we have carefully considered and recommend for passage: House Bills Nos. 337, 1737 (with amendment), 1852 (with amendment), 1888, 2089, 2099, 2123, 2247, 2295 (with amendment), 2298, 2428 (with amendment) and 2444, and Senate Joint Resolution No. 160.

MURRAY (Madison), Chairman.

Under the rules, House Bills Nos. 337, 1737, 1852, 1888, 2089, 2099, 2123, 2247, 2295, 2298, 2428 and 2444, and Senate Joint Resolution No. 160 were transmitted to the Committee on Calendar and Rules.

REPORT OF COMMITTEE ON CALENDAR AND RULES

MR. SPEAKER: Your Committee on Calendar and Rules begs leave to report that we have met and set the following bills on the Calendar for Wednesday, March 8, 1978: House Bills Nos. 2017, 2263, 2395, 32, House Joint Resolutions Nos. 333, 278, House Bills Nos. 2025, 2470, 2265, 2392, 2154, 2404, 2385, 2153, 1948, 2489, 2216, 2148, 2115, 2119, 285, 2206 and 1548.

LANIER, Chairman.

LOCAL BILLS REFERRED TO CALENDAR AND RULES

In accordance with Rule No. 47, the following local bills, having received authorization for passage by the local legislative delegation, were transmitted to the Committee on Calendar and Rules: House Bills No. 2521, 2522, 2523, 2525, 2526, 2527, 2530, 2531, 2532 and 2536.

ENGROSSED BILLS

MR. SPEAKER:

Your Chief Engrossing Clerk begs leave to report that we have carefully examined House Bills Nos. 1729, 1951 and 2388; and House Joint Resolutions Nos. 473 and 474; and find same correctly engrossed and ready for transmission to the Senate.

MARILYN EVELYN HAND,
Chief Engrossing Clerk.

On motion of Mr. Burnett (Fentress), the House adjourned until 1:00 p.m. tomorrow.